

## § 146.1

## 17 CFR Ch. I (4–1–09 Edition)

### APPENDIX A TO PART 146—FEES FOR COPIES OF RECORDS REQUESTED UNDER THE PRIVACY ACT OF 1974

AUTHORITY: 88 Stat. 1896 (5 U.S.C. 552a), as amended; 88 Stat. 1389 (7 U.S.C. 4a(j)).

SOURCE: 41 FR 3212, Jan. 21, 1976, unless otherwise noted.

#### § 146.1 Purpose and scope.

(a) This part contains the rules of the Commodity Futures Trading Commission implementing the Privacy Act of 1974 (Pub. L. 93–579, 5 U.S.C. 552a). These rules apply to all records maintained by this Commission which are not excepted or exempted as set forth in § 146.12, insofar as they contain personal information concerning an individual, identify that individual by name or other symbol and are contained in a system of records from which information is retrieved by the individual's name or identifying symbol. Among the primary purposes of these rules are to permit individuals to determine whether information about them is contained in Commission files and, if so, to obtain access to that information; to establish procedures whereby individuals may have inaccurate and incomplete information corrected; and, to restrict access by unauthorized persons to that information.

(b) In this part the Commission is also exempting certain Commission systems of records from some of the provisions of the Privacy Act of 1974 that would otherwise be applicable to those systems. These exemptions are authorized under the Privacy Act, 5 U.S.C. 552a(k).

#### § 146.2 Definitions.

For purposes of this part 146:

(a) The term *Commission* means the Commodity Futures Trading Commission;

(b) The term *Executive Director* refers to the executive level staff official appointed pursuant to section 2(a)(5) of the Commodity Exchange Act.

(c) The term *FOI, Privacy and Sunshine Acts compliance staff* refers to the staff in the Office of the Secretariat in the Commission's principal office in Washington, DC who are assigned to respond to requests and handle various other matters under the Freedom of Information Act, the Privacy Act of 1974

and the Government in the Sunshine Act;

(d) The term *individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

(e) The term *maintain* includes maintain, collect, use, or disseminate;

(f) The term *record* means any item, collection, or grouping of information about an individual that is maintained by the Commission, including but not limited to, his education, financial transactions, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual;

(g) The term *system of records* means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(h) The term *system notice* means a notice of the existence and character of the Commission's system of records published in the FEDERAL REGISTER pursuant to § 146.11(a) of these rules;

(i) The term *routine use* means, with respect to the disclosure of a record, the use of that record for a purpose which is compatible with the purpose for which it was collected;

(j) The term *Freedom of Information Act* encompasses both the Freedom of Information Act, as amended, 5 U.S.C. 552, and the Commission's rules contained in part 145 of this title.

(k) The term *agency* means any executive department, military department, Government corporation, Government controlled corporation or other establishment in the Executive branch of the Government or any independent regulatory agency.

[41 FR 3212, Jan. 21, 1976, as amended at 45 FR 26954, Apr. 22, 1980]

#### § 146.3 Requests by an individual for information or access.

(a) Any individual may request information on whether a system of records maintained by the Commission contains any information pertaining to him, or may request access to his record or to any information pertaining to him which is contained in a

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system of records. All requests shall be directed to the FOI, Privacy and Sunshine Acts compliance staff, Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

(b) A request for information or for access to records under this part may be made by mail or in person. The request shall:

(1) Be in writing and signed by the individual making the request;

(2) Include the full name (including the middle name) of the individual seeking the information or record, his home address and telephone number, his business address and telephone number; and

(3) If he is or ever has been registered with the Commission or its predecessor agency, or associated with a firm so registered as a partner, officer or director or 10% shareholder, state in what capacity he is or was registered.

(c) For each system of records from which information is sought, the request shall:

(1) Specify the title and identifying number for that system as it appears in the system notice published by the Commission;

(2) Provide additional identifying information, if any, specified in the system notice;

(3) Describe the specific information or kind of information sought within that system of records; and

(4) Set forth any special arrangements sought concerning the time, place, or form of access. A description of the information contained in a system notice and instructions on how to obtain copies of the Commission's system notices appear in §146.11(b).

(d) The Commission will respond in writing to a request made under this section within ten days (excluding Saturdays, Sundays and legal public holidays) after receipt of the request. If a definitive reply cannot be given within ten days, the request will be acknowledged and an explanation will be given of the status of the request.

(e) When an individual has requested access to records, available to him under these rules, he will either be notified in writing of where and when he may obtain access to the records re-

quested or be given the name, address and telephone number of the member of the Commission staff with whom he should communicate to make further arrangements for access.

[41 FR 3212, Jan. 21, 1976, as amended at 41 FR 28260, July 9, 1976; 60 FR 49335, Sept. 25, 1995]

### § 146.4 Procedures for identifying the individual making the request.

When a request for information or for access to records has been made pursuant to §146.3, before information is given or access is granted pursuant to §146.5 of these rules the Commission shall require reasonable identification of the person making the request to insure that information is given and records are disclosed only to the proper person.

(a) An individual may establish his identity by:

(1) Submitting with his request for information or for access a photocopy of two pieces of identification bearing his name and signature, one of which shall bear his current home or business address; or

(2) Appearing at any office of the Commission (located at the addresses set forth in §145.6 of these rules) during the regular working hours for that office and presenting either:

(i) One piece of identification containing a photograph and signature, such as a drivers license or passport or

(ii) Two pieces of identification bearing his name and signature, one of which shall bear his current home or business address; or

(3) Providing such other proof of identity as the Commission deems satisfactory in the circumstances of a particular request.

(b) If the Executive Director or other designated Commission official determines that the data in a requested record is so sensitive that unauthorized access could cause harm or embarrassment to the person whose record is involved, or if the person making the request is unable to produce satisfactory evidence of identity under paragraph (a) of this section, the individual making the request may be required to submit a notarized statement attesting to his identity and that he is familiar